

Todd M. Friedman (SBN 216752)
Adrian R. Bacon (SBN 280332)
Meghan E. George (SBN 274525)
LAW OFFICES OF TODD M. FRIEDMAN, P.C.
21550 Oxnard St., Suite 780
Woodland Hills, CA 91367
Phone: 877-206-4741
Fax: 866-633-0228
tfriedman@toddfllaw.com
abacon@toddfllaw.com
mgeorge@toddfllaw.com
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ERICA WHITE, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

WESTERN DENTAL SERVICES,
INC.,

Defendant.

) Case No.

) **CLASS ACTION**

) **COMPLAINT FOR VIOLATIONS
OF:**

1. NEGLIGENT VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT [47 U.S.C. §227 ET
SEQ.]
2. WILLFUL VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT [47 U.S.C. §227 ET
SEQ.]
3. VIOLATIONS OF THE
ROSENTHAL FAIR DEBT
COLLECTION PRACTICES
ACT [CAL. CIV. CODE
§1788 ET SEQ.]

) **DEMAND FOR JURY TRIAL**

Plaintiff ERICA WHITE (“Plaintiff”), individually and on behalf of all
others similarly situated, alleges the following against Defendant WESTERN

1 DENTAL SERVICES, INC. upon information and belief based upon personal
2 knowledge:

3 **INTRODUCTION**

4 1. Plaintiff's Class Action Complaint is brought pursuant to the
5 Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. ("TCPA").

6 2. Plaintiff, individually, and on behalf of all others similarly situated,
7 brings this Complaint for damages, injunctive relief, and any other available legal
8 or equitable remedies, resulting from the illegal actions of Defendant in
9 negligently, knowingly, and/or willfully contacting Plaintiff no Plaintiff's cellular
10 telephone, thereby the TCPA, 47 U.S.C. § 227. Plaintiff alleges as follows upon
11 personal knowledge as to herself and her own acts and experiences, and, as to all
12 other matters, upon information and belief, including investigation conducted by
13 his attorneys.

14 3. In addition to Plaintiff's Class Claims, Plaintiff also brings an action
15 for damages as an individual consumer for Defendant's violations the Rosenthal
16 Fair Debt Collection Practices Act, Cal Civ. Code §1788, et seq. (hereinafter
17 "RFDCPA") which prohibits debt collectors from engaging in abusive, deceptive,
18 and unfair practices.

19 **JURISDICTION AND VENUE**

20
21 4. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,
22 a resident of California, seeks relief on behalf of a Class, which will result in at
23 least one class member belonging to a different state than that of Defendant, a
24 California company that does business in California and other States. Plaintiff also
25 seeks up to \$1,500.00 in damages for each call in violation of the TCPA, which,
26 when aggregated among a proposed class in the thousands, exceeds the
27 \$5,000,000.00 threshold for federal court jurisdiction. Therefore, both diversity
28

1 jurisdiction and the damages threshold under the Class Action Fairness Act of 2005
2 (“CAFA”) are present, and this Court has jurisdiction.

3 5. Alternatively, this Court has jurisdiction over Plaintiff’s TCPA claims
4 pursuant to 28 U.S.C. § 1331.

5 6. Ancillary to Plaintiff’s TCPA claims, this Court has jurisdiction
6 pursuant to 28 U.S.C. § 1367(a) over Plaintiff’s claims arising under the RFDCPA,
7 Cal. Civ. Code § 1788, *et seq.* because they arise under the same case or
8 controversy.

9 7. Venue is proper in the United States District Court for the Central
10 District of California pursuant to 28 U.S.C. § 1391(b)(2) because Defendant does
11 business within the State of California and Plaintiff resides within this District.

12 **PARTIES**

13 8. Plaintiff, ERICA WHITE (“PLAINTIFF”), is a natural person
14 residing in Los Angeles County in the state of California, and is a “person” as
15 defined by 47 U.S.C. § 153(39). Furthermore, Plaintiff is a “debtor” as defined by
16 the RFDCPA, Cal. Civ. Code § 1788.2(h).

17 9. At all relevant times herein, DEFENDANT, WESTERN DENTAL
18 SERVICES, INC. (“DEFENDANT”), is dental service company engaged in
19 collection activity in connection with debts allegedly owed to it, and is a “person”
20 as defined by 47 U.S.C. § 153(39). Furthermore, Defendant, at all relevant times
21 herein, was a company engaged, by use of the mails and telephone, in the business
22 of collecting an alleged debt from PLAINTIFF which qualifies as a “consumer
23 debt” as defined by the RFDCPA, Cal. Civ. Code § 1788.2(f). DEFENDANT
24 regularly attempts to collect debts in the ordinary course of its business, and
25 therefore is a “debt collector” as defined by the RFDCPA, Cal. Civ. Code §
26 1788.2(c).
27
28

1 10. Defendants acted through their agents, employees, officers, members,
2 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
3 representatives, and insurers.

4 **FACTUAL ALLEGATIONS – TCPA**

5
6 11. Beginning in or around February of 2016 and continuing at least
7 through May of 2016, Defendant contacted Plaintiff on her cellular telephone
8 number ending in -4957, in an effort to collect an alleged debt owed from Plaintiff.

9 12. Defendant called Plaintiff from telephone numbers confirmed to
10 belong to Defendant, including without limitation (866) 620-8390 and (866) 620-
11 8392.

12 13. In its efforts to collect the alleged debt owed from Plaintiff, Defendant
13 used an “automatic telephone dialing system,” as defined by *47 U.S.C. § 227(a)(1)*
14 to place its daily calls to Plaintiff seeking to collect an alleged debt owed.

15 14. Defendant’s calls constituted calls that were not for emergency
16 purposes as defined by *47 U.S.C. § 227(b)(1)(A)*.

17 15. Defendant’s calls were placed to telephone number assigned to a
18 cellular telephone service for which Plaintiff incurs a charge for incoming calls
19 pursuant to *47 U.S.C. § 227(b)(1)*.

20 16. During all relevant times, Defendant did not possess Plaintiff’s “prior
21 express consent” to receive calls using an automatic telephone dialing system or an
22 artificial or prerecorded voice on his cellular telephone pursuant to *47 U.S.C. §*
23 *227(b)(1)(A)*.

24 17. Furthermore, Plaintiff orally revoked any and all consent to be
25 contacted using an automated telephone dialing system, to the extent any ever
26 existed.

27
28 18. Despite Plaintiff’s oral revocation of consent to be called, Defendant

1 continued to call Plaintiff.

2 19. Plaintiff alleged upon information and belief, including without
3 limitation her experience of being called by Defendant despite her explicit
4 revocation of consent to be called, that Defendant failed to put in place reasonable
5 policies and procedures to avoid violation of the TCPA.

6 **FACTUAL ALLEGATIONS – RFDCPA**

7 20. In addition to the facts pled above, at various times prior to the filing
8 of the instant complaint, including within one year preceding the filing of this
9 complaint, DEFENDANT contacted PLAINTIFF in an attempt to collect an
10 alleged outstanding debt.

11 21. On or about February through May of 2016, Plaintiff began receiving
12 numerous calls from Defendant.

13 22. Each of these calls were made to Plaintiff in connection with
14 collection on an alleged debt.

15 23. On several occasions, Plaintiff told Defendant to stop calling her, but
16 Defendant continued to call.

17 24. The RFDCPA, Cal. Civ. Code § 1788.17 mandates that every debt
18 collector collecting or attempting to collect a consumer debt shall comply with the
19 Federal Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§ 1692b
20 through 1692j and be subject to the remedies in the FDCPA, 15 U.S.C. § 1692k.

21 25. DEFENDANT’S conduct violated the RFDCPA in multiple ways,
22 including but not limited to:
23

24 a) Causing a telephone to ring repeatedly or continuously to annoy
25 Plaintiff (Cal. Civ. Code § 1788.11(d));

26 b) Communicating, by telephone or in person, with Plaintiff with such
27 frequency as to be unreasonable and to constitute an harassment to
28 Plaintiff under the circumstances (Cal. Civ. Code § 1788.11(e));

- c) Causing Plaintiffs telephone to ring repeatedly or continuously with intent to harass, annoy or abuse Plaintiff (15 U.S.C. § 1692d(5));
- d) Communicating with Plaintiff at times or places which were known or should have been known to be inconvenient for Plaintiff (15 U.S.C. § 1692c(a)(1)); and
- e) Engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff (15 U.S.C. § 1692d)).

26. As a result of the above violations of the RFDCPA, Plaintiff suffered and continues to suffer injury to PLAINTIFF'S feelings, personal humiliation, embarrassment, mental anguish and emotional distress, and DEFENDANT is liable to PLAINTIFF for PLAINTIFF'S actual damages, statutory damages, and costs and attorney's fees.

CLASS ACTION ALLEGATIONS

27. Plaintiff brings this action individually and on behalf of all others similarly situated, as a member of the proposed class (hereafter "The Class") defined as follows:

All persons within the United States who received any telephone calls from Defendant to said person's cellular telephone made through the use of any automatic telephone dialing system or an artificial or prerecorded voice and such person had not previously consented to receiving such calls within the four years prior to the filing of this Complaint

28. Plaintiff represents, and is a member of, The Class, consisting of All persons within the United States who received any collection telephone calls from Defendant to said person's cellular telephone made through the use of any automatic telephone dialing system or an artificial or prerecorded voice and such person had not previously not provided their cellular telephone number to

1 Defendant within the four years prior to the filing of this Complaint.

2 29. Defendant, its employees and agents are excluded from The Class.
3 Plaintiff does not know the number of members in The Class, but believes the Class
4 members number in the thousands, if not more. Thus, this matter should be
5 certified as a Class Action to assist in the expeditious litigation of the matter.

6 30. The Class is so numerous that the individual joinder of all of its
7 members is impractical. While the exact number and identities of The Class
8 members are unknown to Plaintiff at this time and can only be ascertained through
9 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
10 The Class includes thousands of members. Plaintiff alleges that The Class
11 members may be ascertained by the records maintained by Defendant.

12 31. Plaintiff and members of The Class were harmed by the acts of
13 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
14 and Class members via their cellular telephones thereby causing Plaintiff and Class
15 members to incur certain charges or reduced telephone time for which Plaintiff and
16 Class members had previously paid by having to retrieve or administer messages
17 left by Defendant during those illegal calls, and invading the privacy of said
18 Plaintiff and Class members.

19 32. Common questions of fact and law exist as to all members of The
20 Class which predominate over any questions affecting only individual members of
21 The Class. These common legal and factual questions, which do not vary between
22 Class members, and which may be determined without reference to the individual
23 circumstances of any Class members, include, but are not limited to, the following:

- 24 a. Whether, within the four years prior to the filing of this
25 Complaint, Defendant made any collection call (other than a
26 call made for emergency purposes or made with the prior
27 express consent of the called party) to a Class member using
28 any automatic telephone dialing system or any artificial or

1 prerecorded voice to any telephone number assigned to a
2 cellular telephone service;

3 b. Whether Plaintiff and the Class members were damages
4 thereby, and the extent of damages for such violation; and

5 c. Whether Defendant should be enjoined from engaging in such
6 conduct in the future.

7 33. As a person that received numerous collection calls from Defendant
8 using an automatic telephone dialing system or an artificial or prerecorded voice,
9 without Plaintiff's prior express consent, Plaintiff is asserting claims that are
10 typical of The Class.

11 34. Plaintiff will fairly and adequately protect the interests of the members
12 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
13 class actions.

14 35. A class action is superior to other available methods of fair and
15 efficient adjudication of this controversy, since individual litigation of the claims
16 of all Class members is impracticable. Even if every Class member could afford
17 individual litigation, the court system could not. It would be unduly burdensome
18 to the courts in which individual litigation of numerous issues would proceed.
19 Individualized litigation would also present the potential for varying, inconsistent,
20 or contradictory judgments and would magnify the delay and expense to all parties
21 and to the court system resulting from multiple trials of the same complex factual
22 issues. By contrast, the conduct of this action as a class action presents fewer
23 management difficulties, conserves the resources of the parties and of the court
24 system, and protects the rights of each Class member.

25 36. The prosecution of separate actions by individual Class members
26 would create a risk of adjudications with respect to them that would, as a practical
27 matter, be dispositive of the interests of the other Class members not parties to such
28 adjudications or that would substantially impair or impede the ability of such non-

1 party Class members to protect their interests.

2 37. Defendant has acted or refused to act in respects generally applicable
3 to The Class, thereby making appropriate final and injunctive relief with regard to
4 the members of The Class as a whole.

5 **FIRST CAUSE OF ACTION**

6 **Negligent Violations of the Telephone Consumer Protection Act**

7 **47 U.S.C. §227 et seq.**

8 **By Plaintiff and The Class Against Defendant**

9 38. Plaintiff repeats and incorporates by reference into this cause of
10 action the allegations set forth above at Paragraphs 1-37.

11 39. The foregoing acts and omissions of Defendant constitute numerous
12 and multiple negligent violations of the TCPA, including but not limited to each
13 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

14 40. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*
15 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory
16 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

17 41. Plaintiff and the Class members are also entitled to and seek
18 injunctive relief prohibiting such conduct in the future.

19 **SECOND CAUSE OF ACTION**

20 **Knowing and/or Willful Violations of the Telephone Consumer Protection**

21 **Act**

22 **47 U.S.C. §227 et seq.**

23 **By Plaintiff and The Class Against Defendant**

24 42. Plaintiff repeats and incorporates by reference into this cause of
25 action the allegations set forth above at Paragraphs 1-37.

26 43. The foregoing acts and omissions of Defendant constitute numerous
27 and multiple knowing and/or willful violations of the TCPA, including but not
28 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*

1 *seq.*

2 44. As a result of Defendant's knowing and/or willful violations of 47
3 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of
4 \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 *U.S.C.*
5 *§ 227(b)(3)(B)* and 47 *U.S.C. § 227(b)(3)(C)*.

6 45. Plaintiff and the Class members are also entitled to and seek
7 injunctive relief prohibiting such conduct in the future.

8 **THIRD CAUSE OF ACTION**

9 **Violations of the Rosenthal Fair Debt Collection Practices Act**

10 **Cal. Civ. Code § 1788 et seq.**

11 **By Plaintiff, Individually, Against Defendant**

12
13 46. Plaintiff repeats and reincorporates by reference into this cause of
14 action allegations set forth above at paragraphs 1-26.

15
16 47. To the extent that Defendant's actions, counted above, violated the
17 RFDCPA, those actions were done knowingly and willfully.

18 **PRAYER FOR RELIEF**

19
20 WHEREFORE, Plaintiff requests judgment against Defendant for the
21 following:

22
23 **FIRST CAUSE OF ACTION**

24 **Negligent Violations of the Telephone Consumer Protection Act**

25 **47 U.S.C. §227 et seq.**

- 26 • As a result of Defendant's negligent violations of 47 *U.S.C.*
27 *§227(b)(1)*, Plaintiff and the Class members are entitled to and
28 request \$500 in statutory damages, for each and every violation,

pursuant to 47 U.S.C. 227(b)(3)(B).

- Any and all other relief that the Court deems just and proper.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

THIRD CAUSE OF ACTION

Violations of the Rosenthal Fair Debt Collection Practices Act Cal. Civ. Code § 1788 et seq.

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
- B. Statutory damages for willful and negligent violations;
- C. Costs and reasonable attorney's fees;
- D. For such other and further relief as may be just and proper.

///

///

///

///

TRIAL BY JURY

48. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted this 4th day of March, 2017.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman
Todd M. Friedman
Law Offices of Todd M. Friedman
Attorney for Plaintiff